Assessment Year 1990-91

HIGH COURT OF UTTARANCHAL AT NAINITAL

Income Tax Appeal No. 95 of 2001
(Old No. 339 of 2000)

The Commissioner of Income Tax Meerut,
And another. .... Appellants.

Vs.

Saipem SPA as agent of Mr. Pinanzzi Franco,
Arthur Andersen & Company, Bombay. ... Respondent.

Mr. S.K. Posti, Advocate for the appellants.
Ms. Krishi Shukla, Ad. For the respondent.

Hon'ble M.M. Ghildiyal J.
Hon'ble Rajesh Tandon, J.

Heard learned counsel for the appellants.

By means of this appeal following questions of law are raised for consideration of this Court:-

1- Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding that free boarding and loading facilities provided by the employer on board to rig in high seas cannot be construed to be perquisite?

2- Whether on the facts and circumstances of the case, the Ld. ITAT was legally justified in holding that interest u/s 234-B of the I.T. Act cannot be charged since the entire income of the assessee was subject to T.D.S. whereas this interest is chargeable on assessed tax as defined by Explanation I below section 234-B?

Counsel for the appellant has submitted that the controversy raised in this appeal is squarely covered by the decision of the Division Bench of this Court in Commissioner of Income Tax and Another v. Sedco Forex International Drilling Co. Ltd. decided on Oct. 9, 2003, reported in ITA Vol. 264 page 321 and the appeal may be decided in terms of the of aforesaid decision of the Division Bench of this Court.

Keeping in view of the aforesaid facts, the appeal is decided in terms of the decision of the Division Bench of this Court in Commissioner of Income Tax and Another v. Sedco Forex

International Drilling Co. Ltd. decided on Oct. 9, 2003, reported in ITA Vol. 264 page 321. Accordingly, both the questions of law raised through this appeal are decided in favour of the assessee and against the Department. No order as to costs.

(Rajesh Tandon, J.) **(M.M. Ghildiyal, J.)**

June 24, 2004:
NCM: